

**EXHIBIT 5**  
**TO SETTLEMENT AGREEMENT**

*In re Wal-Mart Wage & Hour Litigation Settlement*

c/o &lt;&lt;Claims Administrator&gt;&gt;

&lt;&lt;Claims Administrator's Address&gt;&gt;

May     , 2010

&lt;&lt;Addressee&gt;&gt;

&lt;&lt;Title Position&gt;&gt;

&lt;&lt;Address 1&gt;&gt;

&lt;&lt;Address 2&gt;&gt;

&lt;&lt;City, ST Zip&gt;&gt;

Re: Notice of Proposed Class Settlement of *Smith v. Wal-Mart Stores, Inc.*, Case No. C-06-020269-SBA (United States District Court, Northern District of California) and *Ballard v. Wal-Mart Stores, Inc.*, Case No. CV-06-05411-SBA (United States District Court, Northern District of California), jointly referred to as *In re Wal-Mart Stores, Inc. Wage & Hour Litigation*.

Dear &lt;&lt;Addressee&gt;&gt;,

Pursuant to the Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. §1715, Wal-Mart Stores, Inc. ("Wal-Mart") hereby provides notice of a proposed settlement in the above-captioned matter.

Please be advised that on <<insert date>>, 2010 class counsel filed a motion for preliminary approval of a settlement covering the litigation known as *In re: Wal-Mart Stores Wage and Hour Litigation*, Case No. 020269 SBA (which includes the two consolidated cases *Smith v. Wal-Mart* (Case No. C-06-020269 SBA) ("Smith Action"), and *Ballard v. Wal-Mart* (Case No. CV-06-05411 SBA) ("Ballard Action")), pending in the United States District Court for the Northern District of California ("Litigation"). The proposed settlement covers all of the claims pled, or that could have been pled, on the facts asserted in the Complaints or any Amended Complaints filed in the Litigation. [[On <<insert date>>, 2010, the Court granted preliminary approval of the settlement.]]

In accordance with 28 U.S.C. § 1715(b), Wal-Mart is providing information regarding the Litigation, proposed settlement, notice and claim process, class members, and procedural posture of the Litigation. Where applicable, documents are provided in digital format on the enclosed CD, as described on the enclosed Index. Please be advised as follows:

- (1) Copies of the original, amended, and operative complaints filed in the Smith Action and Ballard Action, respectively, are on the enclosed CD (Index, items A through D).
- (2) [[A date for the final approval hearing of the settlement has not yet been set, but we anticipate that the final approval hearing will be scheduled in approximately <<insert date>>, 2010]] [[A final approval hearing for the settlement has been set for <<insert date>>, 2010, although it is possible that that date may change. A copy of the Court's <<insert date>>, 2010 Order Preliminarily Approving Settlement, Approving Form and Manner of Notice, and Scheduling Hearing on Fairness of Settlement Pursuant to Fed. R. Civ. P. 23(e) for the settlement is on the enclosed CD (Index, item E).]]
- (3) A copy of the proposed Notice of Class Action Settlement is on the enclosed CD (Index, item E/F).

*Smith/Ballard Class Action Settlement*

c/o <<Claims Administrator>>

<<Claims Administrator's Address>>

- (4) A copy of the settlement agreement is enclosed (Index, item F/G).
- (5) There is no contemporaneous agreement between class counsel and counsel for Wal-Mart, other than the agreement reached to settle this Litigation as described herein.
- (6) At this time, there are no final judgments or notices of dismissal in the Litigation.
- (7) Because it is not feasible at this time to provide the names of all settlement class members, counsel hereby represents the estimated number of settlement class members is approximately <<number>>, the vast majority of whom are believed to be residents of California.
- (8) The exact amount due each class member, and the proportionate share of the claims of such class members to the entire settlement, cannot be determined until the court has ruled on class counsel's motion for fees and until all class members have responded or the time to respond has expired. The proposed settlement provides individual recoveries for class members according to a claims-made process as set forth in the enclosed settlement agreement and proposed class settlement notice, each of which has yet to be finally approved by the Court. Amounts recovered by individual class members may vary depending on the number and type of claims received during the administration of the settlements.
- (9) At this time, [[other than the Court's Order granting preliminary approval,]] there are no written, judicial opinions relating to items (3) through (6) above.

If you have questions about this notice, the Litigation, the settlement, or the enclosed materials, or if you did not receive any of the above-listed materials, please contact counsel for Defendant Wal-Mart Stores, Inc., identified below.

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Enclosures